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DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-818]

Low Enriched Uranium from France: Initiation of Expedited Changed Circumstances Review, and Preliminary Results of Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216 and 351.221(c)(3), the Department of Commerce (Department) is initiating a changed circumstances review (CCR) of the antidumping duty order on low-enriched uranium from France with respect to Eurodif S.A. and AREVA NP Inc. (collectively, AREVA).

Moreover, the Department has determined that it is appropriate to conduct this CCR on an expedited basis. Thus, the Department has preliminarily determined to extend the deadline for the re-exportation of one specified entry of LEU until November 1, 2015. The Department has also preliminarily determined that this will be the final extension. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Andrew Huston or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4261 or (202) 482-1391, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 2002, the Department published an order on low-enriched uranium from France.¹ The order contains a provision to exclude from the scope low-enriched uranium owned by a:

foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO₂) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.²

On December 5, 2011, AREVA requested that the Department initiate and conduct an expedited CCR to amend the scope of the order to extend by 18 months the deadline for re-exporting an entry of low-enriched uranium for which AREVA reported it would not be able to meet the deadline for re-exportation.³ At the time of entry, the low-enriched uranium at issue met the requirements for exclusion from the scope outlined above. On April 2, 2012, the Department published the final results of the CCR, extending the deadline for re-exportation of this sole entry by 18 months, to no later than November 1, 2013.⁴

On July 8, 2013, AREVA requested that the Department initiate a CCR in order to further extend the period for the re-exportation this sole entry of low-enriched uranium from November 1, 2013, until November 1, 2015. AREVA also requested that the Department conduct the review on an expedited basis. On August 7, 2013, USEC, Inc., and its subsidiary, United States

¹ See Notice of Amended Final Determination and Notice of Antidumping Duty Order: Low Enriched Uranium From France, 67 FR 6680 (February 13, 2002).

² See id.

³ See Letter from AREVA, "Low Enriched Uranium from France," dated December 5, 2011.

⁴ See Low Enriched Uranium from France: Final Results of Antidumping Duty Changed Circumstances Review, 77 FR 19642 (April 2, 2012) (Final Results of Changed Circumstances Review).

Enrichment Corporation (collectively, USEC), filed a letter indicating that it does not object to a further extension of the deadline, as requested by AREVA, for the re-exportation of this one shipment.

Scope of the Order

The product covered by the order is all low-enriched uranium. Low-enriched uranium is enriched uranium hexafluoride (UF₆) with a U²³⁵ product assay of less than 20 percent that has not been converted into another chemical form, such as UO₂, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including low-enriched uranium produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of the order. Specifically, the order does not cover enriched uranium hexafluoride with a U²³⁵ assay of 20 percent or greater, also known as highly-enriched uranium. In addition, fabricated low-enriched uranium is not covered by the scope of the order. For purposes of the order, fabricated uranium is defined as enriched uranium dioxide (UO₂), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U₃O₈) with a U²³⁵ concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U²³⁵ concentration of no greater than 0.711 percent are not covered by the scope of the order.

Also excluded from the order is low-enriched uranium owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO₂) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported low-enriched uranium (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are

re-exported within eighteen (18) months of entry of the low-enriched uranium for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b) of the Act and 19 CFR 351.216 and 351.221(c)(3), the Department is initiating a CCR of the antidumping duty order on low-enriched uranium from France with respect to AREVA. Based on the information and documentation AREVA submitted in its July 8, 2013, letter we find that we have received information which shows changed circumstances sufficient to warrant initiation of a review to determine if circumstances support the extension of the time period to re-export the specified entry of low-enriched uranium. Further, the Department finds that it is appropriate to conduct this review on an expedited basis, and issue the preliminary results along with this initiation.

Preliminary Results of Expedited Changed Circumstances Review

Based on the Department's analysis of the information provided by AREVA with its request for CCR, in accordance with 19 CFR 351.216, we preliminarily determine to amend the scope of the order to extend by an additional 18 months the deadline for re-exporting the LEU entry at issue. AREVA imported the entry of LEU at issue into the United States on November 1, 2010, for fabrication and subsequent re-exportation to the end-user, the Japanese customer.

The entry met the conditions in the scope of the order for exclusion from the order; both the importer and the end-user filed with U.S. Customs and Border Protection (CBP) the certifications required for exclusion. As a result of the shutdown of the Hamaoka nuclear power facility following the March 11, 2011 earthquake and tsunami in Japan, the Department extended the 18-month period for the re-exportation of this entry by an additional 18 months, until November 1, 2013, and new certifications were filed with CBP by the importer and the end-user.⁵

AREVA's July 8, 2013, request explains its end-user is not yet in a position to take delivery of the low-enriched uranium. AREVA provided documents with its request indicating that the improvements and the earthquake and tsunami countermeasures at the Hamaoka facility have not been completed, as previously anticipated, and the Japanese end-user was unable to take delivery of the subject merchandise within both the original and the second, subsequent, 18-month periods (i.e., since the shutdown of the Hamaoka nuclear power facility following the March 11, 2011 earthquake and tsunami in Japan), and the end-user remains unable to take delivery. Specifically, AREVA provided a timeline, and correspondence from Chubu Electric Power Co. Inc. and the Japanese Ministry of Economy, Trade and Industry regarding improvements to the Hamaoka Nuclear Power Station and the anticipated completion of the earthquake and tsunami countermeasures at the Hamaoka facility.⁶

We preliminarily find that the evidence provided by AREVA is sufficient to establish that changed circumstances exist. Therefore, in accordance with 19 CFR 351.216, we preliminarily find that it is appropriate to extend further the deadline for re-exportation of this sole entry of low-enriched uranium by an additional 24 months. Should these preliminary results remain

⁵ See Final Results of Changed Circumstances Review.

⁶ See Letter from AREVA, "Low Enriched Uranium from France: Request for Changed Circumstances Review," dated July 8, 2013.

unchanged in the final results, we will extend the deadline for re-exportation of this entry to no later than November 1, 2015. AREVA and the end-user will be required to provide new certifications to CBP prior to the current deadline for re-exportation of this entry, i.e., November 1, 2013. Furthermore, because the result of the extensions is that AREVA would have five years from the date of the entry to re-export the entry, we preliminarily determine that it is appropriate to make this extension final. Accordingly, AREVA will be required to comply with the terms of the new certifications by November 1, 2015, with no further extension. Because the low-enriched uranium shipment was entered as a “type 1” entry for consumption, outside the scope of the order, and not suspended or subject to antidumping duties, we will require AREVA to provide an additional certification by November 1, 2015, stating its agreement that it will pay antidumping duties on the entry at the applicable rate if the re-exportation deadline of November 1, 2015 is not met.

Public Comment

The Department specifically requests that parties comment on the Department’s preliminary determination that this extension will be final, addressing if relevant an appropriate alternative for establishing an end-date by which the re-exportation of this shipment should be required, or any other options for the final resolution of this matter.

Any interested party may request a hearing within 15 days of publication of this notice. Any hearing, if requested, will be held no later than 27 days after the date of publication of this notice, or the first business day thereafter. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. Case briefs from interested parties may be submitted not later than 15 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in the case briefs, may be filed no later than

five days after the submission of case briefs. All written comments shall be submitted in accordance with 19 CFR 351.303. Parties are reminded that as of August 5, 2011, with certain, limited exceptions, all submissions for all proceedings must be filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS).⁷ An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time (ET) on the deadline.

The Department intends to issue the final results of this CCR no later than October 31, 2013. This date may be extended in accordance with 19 CFR 351.216(e). The final results will include the Department's analysis of issues raised in any written comments.

We are issuing and publishing these preliminary results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19 CFR 351.216.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

August 26, 2013.
Date

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⁷ For additional information on IA ACCESS, please visit <https://iaaccess.trade.gov/help.aspx>.